

- (2) Whether claimant is entitled to benefits requested at the regular hearing.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein and in addition the stipulations of the parties, the Appeals Board makes the following findings of fact and conclusions of law:

The findings of fact and conclusions of law set out by the Administrative Law Judge in the Award are properly discussed in the Award and said findings and conclusions do not need to be repeated herein. The findings and conclusions enumerated in the Award of the Administrative Law Judge are both accurate and appropriate and the Appeals Board adopts same as its own findings and conclusions as if specifically set forth herein as to the issues raised.

Claimant alleges entitlement to lifetime medical care for a blood condition known as anticardiolipin antibody A. This is a congenital condition which claimant has had his entire life. The medical records also indicate claimant had a prior blood clot in his leg in 1993. Claimant suffered a work-related injury with respondent on April 15, 1993 and claimant was administered an I.V. at the hospital. The I.V. led to an additional blood clot in claimant's arm. After discovery of this second blood clot, tests were run identifying claimant's long-term congenital condition.

The medical testimony of Dr. James E. Davia, a board-certified cardiologist and one time chief of cardiology services at Walter Reed Army Medical Center in Washington, D.C., discusses claimant's condition as being a biochemical deficiency unrelated to claimant's employment. Dr. Davia stated claimant's need for lifetime medical treatment was due to the congenital medical condition and not to any injuries suffered by claimant arising out of and in the course of his employment. Claimant attempts to rebut Dr. Davia's testimony with that of Dr. Jeffrey Brozek, a family practitioner, in Great Bend, Kansas. Dr. Brozek's testimony indicates that the injuries suffered by claimant on April 15, 1993 and the resulting blood clot brought claimant's condition to light or potentially aggravated claimant's condition. He felt that the vein irritation suffered from the I.V. led to the clot. Dr. Brozek also felt that this was a temporary flare-up of claimant's preexisting condition, opining that claimant's condition, subsequent to the three months of treatment, was the same both before and after the incident. He went on to testify that claimant's need for lifetime treatment with Coumadin, a blood thinner, was due to the fact claimant had experienced more than one clot and did not stem from any one specific injury.

In proceedings under the Workers Compensation Act the burden of proof shall be on claimant to establish claimant's right to an award of compensation by proving the various conditions on which claimant's right depends by a preponderance of the credible evidence. K.S.A. 44-501 and K.S.A. 44-508(g). See also Box v. Cessna Aircraft Co., 236 Kan. 237, 689 P.2d 871 (1984).

The Appeals Board acknowledges claimant suffered accidental injury arising out of and in the course of his employment and that this accidental injury led to the need for additional medical care after the formation of the second blood clot. The medical evidence supports a finding that claimant's need for medical care for this clot extends for only three months after the formation of the clot. The Administrative Law Judge was proper in

awarding claimant medical treatment and access to the drug Coumadin for a period not to exceed six months from the date of the discovery of the second clot. The Appeals Board finds said granting of medical care is appropriate under the circumstances and affirms same.

The Administrative Law Judge granted claimant medical treatment for six months from the injury but then denied any award of compensation to the claimant, an apparent contradiction. As such, the Administrative Law Judge's denial of compensation in the Award must be modified to accurately reflect the true award of six months medical treatment.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Award of Administrative Law Judge Bruce E. Moore granting claimant medical treatment in the form of Coumadin for six months from the date of the discovery of the blood clot should be, and is hereby, affirmed and the Award's denial of compensation is, thus, modified.

In all other regards claimant's requests for benefits from this injury should be, and are hereby, denied.

The fees necessary to defray the expense of the administration of the Workers Compensation Act are hereby assessed against the respondent and its insurance carrier to be paid as follows:

Owens, Brake, Cowan & Associates	
Preliminary Hearing Transcript	\$142.20
Regular Hearing Transcript	\$106.74
Underwood & Shane	
Deposition of Dr. Jeffrey Brozek	\$184.50
AAA Reporting Company	
Deposition of Dr. James Davia	\$199.40

IT IS SO ORDERED.

Dated this ____ day of June 1996.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Robert A. Anderson, Ellinwood, KS
Patricia Wohlford, Overland Park, KS
Bruce E. Moore, Administrative Law Judge
Philip S. Harness, Director